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March 1, 2000

**VIA HAND DELIVERY**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Time Warner Inc./AOL Time Warner Inc.**

Dear Ms. Salas:

On February 11, 2000, Time Warner Inc. ("Time Warner") and America Online, Inc. ("AOL") filed applications for consent to the transfer of control of various FCC licenses held by subsidiaries and affiliates of Time Warner and by AOL to AOL Time Warner Inc. in connection with the pending merger of Time Warner and AOL. Also submitted was a Public Interest Statement describing numerous public benefits that will flow from the combination of Time Warner and AOL.

One of the benefits described in the Public Interest Statement was that the merger would facilitate a marketplace solution to the "open access" issue. In that regard, transmitted herewith is a Memorandum of Understanding entered into by Time Warner and AOL setting out the framework under which Time Warner will offer consumers a choice of multiple ISPs, including AOL, on Time Warner's broadband cable systems.

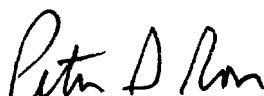
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Ms. Magalie Roman Salas, Secretary  
March 1, 2000  
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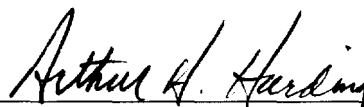
Please associate the enclosed Memorandum of Understanding with the docket in this proceeding.

AMERICA ONLINE, INC.

  
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Peter D. Ross  
Wayne D. Johnsen  
Wiley Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006  
(202) 719-7000

Respectfully submitted,

TIME WARNER INC.

  
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Enclosures

cc: Hon. William E. Kennard  
Hon. Susan Ness  
Hon. Michael K. Powell  
Hon. Harold W. Furchtgott-Roth  
Hon. Gloria Tristani  
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## MEMORANDUM OF UNDERSTANDING

Between

Time Warner Inc.

And

America Online, Inc.

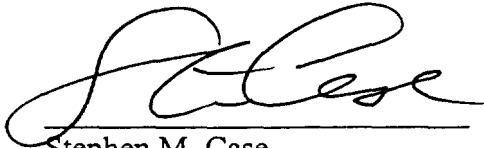
### REGARDING OPEN ACCESS BUSINESS PRACTICES

February 29, 2000

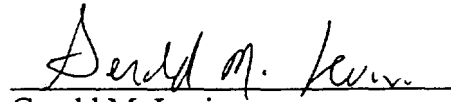
1. This Memorandum of Understanding ("MOU") sets out the commitments that AOL Time Warner will make to provide open access (i.e., to make a choice of multiple Internet Service Providers ("ISPs") available to consumers) on its broadband cable systems. It is the intention of the parties to enter into as quickly as possible a binding definitive agreement to provide broadband AOL service on Time Warner's cable systems, which will be used as a model for the commercial agreements that will be available to other ISPs.
2. AOL Time Warner is committed to offer consumers a choice among multiple ISPs. Consumers will not be required to purchase service from an ISP that is affiliated with AOL Time Warner in order to enjoy broadband Internet service over AOL Time Warner cable systems. AOL Time Warner intends to encourage actively other cable operators similarly to provide consumers with a choice of broadband ISP offerings.
3. AOL Time Warner will effectuate such choice for consumers by negotiating arm's-length commercial agreements with both affiliated (such as AOL) and unaffiliated ISPs that wish to offer service on the AOL Time Warner broadband cable systems. Pursuant to such commercial agreements, AOL Time Warner will partner with ISPs to offer consumers a choice of competing broadband Internet service offerings.
4. AOL Time Warner will not place any fixed limit on the number of ISPs with which it will enter into commercial arrangements to provide broadband service to consumers. AOL Time Warner will provide its consumers with a broad choice among ISPs, consistent with providing a quality consumer experience and any technological limitations in providing multiple ISPs on its broadband cable systems.

5. The terms of the commercial agreements between AOL Time Warner and ISPs wishing to provide broadband service will not discriminate on the basis of whether the ISP is affiliated with AOL Time Warner. Thus, while the economic arrangements reached by AOL Time Warner and ISPs wishing to provide broadband service will vary depending on a number of factors (such as the speed, marketing commitments, and nature and tier of the service desired to be offered), AOL Time Warner will not discriminate in those economic arrangements based upon whether or not the ISP is affiliated with AOL Time Warner. In addition, AOL Time Warner will operate its broadband cable systems in a manner that does not discriminate among ISP traffic based on affiliation with AOL Time Warner.
6. AOL Time Warner will allow ISPs to provide video streaming. AOL Time Warner recognizes that some consumers desire video streaming, and AOL Time Warner will not block or limit it.
7. AOL Time Warner will allow ISPs to connect to its broadband cable systems without purchasing broadband backbone transport from AOL Time Warner.
8. Consistent with technological capability, AOL Time Warner will offer ISPs the choice to partner with it to offer broadband Internet service on a national (on all AOL Time Warner cable systems), regional or local basis, in order to facilitate the ability of consumers to choose among ISPs of different size and scope. AOL Time Warner is committed to bring the benefits of the Internet to all Americans, and will not allow ISPs to offer "redlined" service to only a portion of an AOL Time Warner cable system that is fully enabled to provide broadband service.
9. AOL Time Warner is also committed to allow both the cable operator and the ISP to have the opportunity to have a direct relationship with the consumer. Accordingly, both the cable operator and the ISP will be allowed to market and sell broadband service directly to customers. When AOL Time Warner's cable systems sell broadband Internet service to a customer, they will be entirely responsible for billing and collection. When an ISP sells broadband Internet service directly to a customer, it may, if it so chooses, bill and collect from the customer directly.
10. This MOU represents an initial step by Time Warner and AOL to articulate the terms, conditions and parameters under which a combined AOL Time Warner will offer consumers access to multiple ISPs on its broadband cable systems. It is the intention of the parties to continue to refine those particulars in a manner that is responsive to, and consistent with, the desire of consumers to have a choice among multiple ISPs offering broadband service and the still-evolving nature of the cable infrastructure.

11. All of the foregoing is subject to all pre-existing obligations of Time Warner, including without limitation Time Warner's agreements with Serviceco, LLC (d/b/a Road Runner) and its fiduciary and other obligations to its partners. However, Time Warner will endeavor to reach agreements and accommodations with third parties to which pre-existing obligations are due that would permit the full implementation of the commitments described herein as quickly as possible.



Stephen M. Case  
America Online, Inc.



Gerald M. Levin  
Time Warner Inc.